

UNITED STATES DISTRICT COURT
WESTERN DISTRICT MICHIGAN

FRED BASSALI,

Plaintiff,

Case No. 08-29

vs.

Honorable Paul L. Maloney

JOHNSON CONTROLS, INC., et al.,

Defendants.

SCOTT GRAHAM
SCOTT GRAHAM PLLC
1911 West Centre Ave., Suite C
Portage, MI 49024
(269) 327-0585

SUZANNE KLEIN
BECK, BOWSER ET AL
151 S. Rose St., Suite 800
Kalamazoo MI 49007
(269) 382-1483

JEFFREY THEKDI GEDEON
JOSEPH P. CARRIER
CARRIER BLACKMAN & ASSOCIATES PC
43440 W Ten Mile Rd.
Novi, MI 48375
(248) 344-4422
jeffgedeon@gmail.com
cbalaw@gmail.com

Attorneys for Plaintiff

J. MICHAEL HUGET
DEBORAH L. SWEDLOW
BRIAN D. WASSOM
HONIGMAN MILLER SCHWARTZ AND COHN LLP
130 S. First St., Fourth Floor
Ann Arbor, MI 48104-1386
mhuget@honigman.com
(734) 418-4254

Attorneys for Defendants

ORAL ARGUMENT REQUESTED

DEFENDANTS' PARTIAL MOTION TO DISMISS PLAINTIFF'S FRAUD COUNTS IN HIS THIRD AMENDED COMPLAINT, UNDER FEDERAL RULES 12(b)(6) AND 9(b)

Defendants respectfully move this Honorable Court to dismiss Plaintiff's Count II for fraudulent nondisclosure and Count III for fraudulent concealment based on spoliation, of Plaintiff's Third Amended Complaint (D/E 252), under Rules 9(b) and 12(b)(6) of the Federal

Rules of Civil Procedure.

This Motion is based upon the facts, arguments, and legal authority in Defendants' Brief in Support (filed concurrently), which is incorporated herein. Defendants request oral argument on this motion.

On June 20, 2011, Counsel for Defendants sought Plaintiff's concurrence as required by Local Rule 7.1(d). Counsel for Plaintiff would not consent to the relief sought.

Respectfully submitted,

Dated: June 21, 2011

By: /s/ J. Michael Huget
J. MICHAEL HUGET (P39150)
DEBORAH J. SWEDLOW (P67844)
BRIAN D. WASSOM (P60381)
HONIGMAN MILLER SCHWARTZ AND COHN LLP
130 S. First St., Fourth Floor
Ann Arbor, MI 48104-1386
mhuget@honigman.com
(734) 418-4254

Attorneys for Defendants

9270743.1